



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/505,305

10/27/2004

Lionel Breton

112701-434

6006

29157 7590 05/12/2008  
BELL, BOYD & LLOYD LLP  
P.O. Box 1135  
CHICAGO, IL 60690

EXAMINER

MARX, IRENE

ART UNIT

PAPER NUMBER

1651

NOTIFICATION DATE

DELIVERY MODE

05/12/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Art Unit: 1651

***Response to Arguments***

Applicant's arguments have been fully considered but they are not deemed to be persuasive.

Applicant's arguments directed to the rejections under 35 U.S.C § 112, second paragraph are well taken. This rejection is no longer maintained.

With regard to the obviousness rejection, the declaration presented by applicant has not been considered. Please refer to MPEP §§ 714.12 and 714.13 wherein it is stated that new affidavits or other new evidence should not be entered unless applicant provides “good and sufficient reasons” under 37 CFR § 1.116 or 37 CFR § 1.195 why they were not earlier presented. In the instant case, a final action was sent to applicant with a rejection under 35 U.S.C. 103 in response to an amendment after non-final action, wherein the examiner made out a proper *prima facie* case on August 16, 2007. This rejection was repeated on December 20, 2007, sufficiently rebutting applicant's arguments by pointing out that a *prima facie* case has been presented and arguments relative to unexpected results are not sufficient in the absence of evidence to support the argument. Now, after final, applicant files a declaration attempting to demonstrate unexpected results so as to overcome the 35 U.S.C. 103 rejection. Applicant gives no reasons as to why the declaration was not earlier presented.

Therefore the rejection is deemed proper and it is adhered to.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Marx whose telephone number is (571) 272-0919. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 .

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Irene Marx/  
Primary Examiner  
Art Unit 1651

Application/Control Number: 10/505,305  
Art Unit: 1651

Page 3